

Message Text

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DLOS-03 PRS-01 CIAE-00 INR-10 NSAE-00 RSC-01 ACDA-10

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FM USMISSION NATO

TO SECSTATE WASHDC 5862

SECDEF WASHDC

INFO ALL NATO CAPITALS 4014

AMEMBASSY MOSCOW

AMEMBASSY TOKYO

USEC BRUSSELS 3866

USNMR SHAPE

USLOSACLANT

USDOCSOUTH

USCINCEUR

USCINCLANT

JCS WSHDC

S E C R E T SECTION 1 OF 5 USNATO 2859

LIMDIS

C O R R E C T E D C O P Y -- EO, TAGS & SUBJECT LINES ADDED--

E.O. 11652: GDS

TAGS: NATO, PBOR, MARR

SUBJECT: LAW-OF-THE-SEA; MAY 24 NAC MEETING

SUMMARY: IN SPECIAL MAY 22 COUNCIL SESSION ON LAW OF THE SEA

SECRET

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ATTENDED BY MOST CHIEFS OF DELEGATIONS FOR CARACAS CONFERENCE,
ALLIED REPS STRESSED NEED FOR PROMPT AGREEMENT SO AS TO CHECK
EXCESSIVE UNILATERAL CLAIMS BY COASTAL STATES AND DESIRABILITY
OF APPROACHING CONFERENCE IN A SPIRIT OF COMPROMISE IN ORDER TO

GET AN AGREEMENT. REPS ALSO GENERALLY SUPPORTED POINT STRESSED BY AMB. STEVENSON (U.S.) THAT AGREEMENT WOULD NEED TO BE A PACKAGE BALANCING THE INTERESTS OF COASTAL STATES AND DEVELOPED MARITIME STATES, AND PROVIDING FOR DISPUTE SETTLEMENT. RADM MORRIS (U.S.) BRIEFED NAC ON JCS STUDIES OF ALLIES' MARITIME SECURITY NEEDS. ALLIED REPS MADE FREQUENT REFERENCE TO NEED FOR UNIMPEDED PASSAGE THROUGH STRAITS, WITHOUT PREJUDICING SPECIAL INTERESTS OF CERTAIN MEMBERS, SUCH AS IN DANISH AND MESSINA STRAITS; IMPORTANCE TO ALLIES OF KEEPING OPEN SEA LANES FOR OIL SHIPMENTS THROUGH COASTAL AREAS IN NEAR EAST AND MEDITERRANEAN; PREFERENCE FOR RESTRICTED ROLE FOR INTERNATIONAL AUTHORITY FOR SEABED AREA; INAPPROPRIATENESS OF CARACAS CONFERENCE AS FORUM TO REGULATE MILITARY USES OF SEABED; AND IMPORTANCE OF MAINTAINING EXISTING LAW, INsofar AS POSSIBLE, WHILE REVIEWING ENTIRE LOS. IN SUMMING UP, ACTING SYG PROPOSED THAT ALLIES CONTINUE CONSULTATIONS ON SECURITY ASPECTS DURING CARACAS CONFERENCE. END SUMMARY.

1. FOLLOWING INTRODUCTORY REMARKS BY ASYG PANSA, U.S. REP (STEVENSON) OPENED SUBSTANTIVE DISCUSSION WITH OBSERVATION THAT IN THE FIRST TWO OF THE THREE NAC CONSULTATIONS ON LOS, THE PROSPECT OF A LAW OF THESEA CONFERENCE WAS ONLY A HYPOTHESIS. IN CONTRAST, THE PRESENT CONSULTATIONS WERE TO PREPARE FOR THE REALITY OF SUCH A CONFERENCE.

2. STEVENSON THOUGHT NATO CONSULTATIONS SHOULD ADDRESS EACH OF THE THREE SEPARATE AREAS COVERED UNDER THE CONFERENCE AGENDA. THESE AREAS COVER: (1) THE TERRITORIAL SEA WHERE COASTAL STATES HAVE SOVEREIGNTY SUBJECT TO THE RIGHT OF INNOCENT PASSAGE; (2) AN ADJACENT AREA BEYOND, WHERE A COASTAL STATE WOULD EXERCISE BROAD ECONOMIC JURISDICTION; AND (3) A FULLY INTERNATIONAL AREA BEYOND THAT, COVERING THE DEEP SEABED, WHICH WOULD BE SUBJECT TO INTERNATIONAL CONTROL IN RESPECT TO RESOURCES DEVELOPMENT AND RELATED ENVIRONMENTAL PROTECTION.

3. WITH REGARD TO THE NATIONAL SECURITY ASPECTS OF THE ABOVE THREE AREAS, THERE SEEMS TO BE A CONSENSUS THAT 12 MILES IS THE ONLY GENERALLY ACCEPTABLE DEFINITION OF THE TERRITORIAL SEA.

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THE QUESTION THEN ARISES OF SECURING AN ADEQUATE REGIME FOR TRANSIT THROUGH INTERNATIONAL STRAITS OVERLAPPED BY A 12-MILE TERRITORIAL SEA. CONCERNING THE SECOND AREA, IT IS IMPORTANT FROM A SECURITY STANDPOINT TO RETAIN RIGHTS FOR NAVIGATION, OVERFLIGHT, AND OTHER USES AND TO EFFECT A BALANCED ACCOMMODATION BETWEEN THE EXERCISE OF COASTAL STATE RIGHTS OF ECONOMIC JURISDICTION, AND RIGHTS OF OTHER STATES, AND TO PROVIDE FOR THIRD-PARTY DISPUTE SETTLEMENT FOR CASES OF CONFLICTING USES. WITH REGARD TO SECURITY ASPECTS OF THE THIRD AREA, THE DEEP SEABED, IT WILL BE IMPORTANT TO DEFINE A SYSTEM SO THAT RESOURCE MANAGEMENT AND POLLUTION CONTROL BY INTERNATIONAL AUTHORITY WILL NOT INTERFERE WITH NAVIGATIONAL AND OTHER USES OF THE SEA.

4. BRIEFLY STATED, STEVENSON SAID SECURITY INTERESTS ARE RELATED TO AVOIDING INTERFERENCE WITH FREEDOM OF NAVIGATION AND OTHER USES, WHETHER IN THE AREA OF COASTAL STATE ECONOMIC JURISDICTION BY THE COASTAL STATE OF IN THE DEEP SEABED AREA SUBJECT TO INTERNATIONAL

CONTROL BY THE SEABED AUTHORITY. WHILE THE "PEACEFUL USES" ISSUE HAS BEEN DORMANT RECENTLY, THE ALLIES WOULD PROBABLY ALSO AGAIN HAVE TO DEAL WITH PROPOSALS TO LIMIT MILITARY USES OF THE SEABED.

5. CANADIAN REP (BEESLEY) IN GENERAL REMARKS NOTED THE IMPORTANCE OF RECOGNIZING THAT THE CARACAS MEETING CONSTITUTED A MAJOR LAW-MAKING CONFERENCE, PERHAPS THE LARGEST CONFERENCE IN WORLD HISTORY. INVOLVED WAS THE DRAFTING OF LAWS THAT WOULD RESTRUCTURE THE CURRENT BASIS OF WORLD ORDER BY CHANGING TWO CLASSIC PRINCIPLES IN INTERNATIONAL LAW--COASTAL STATE SOVEREIGNTY, AND FREEDOM OF THE SEAS. THE EXTENSION OF AN ECONOMIC ZONE WITH SOME FORM OF NEW, LIMITED COASTAL STATE JURISDICTION OUT OF 200 MILES OR EVEN TO THE EDGE OF THE CONTINENTAL MARGIN CONSTITUTED A RADICAL APPROACH. ANOTHER "RADICAL" APPROACH WAS THE CONCEPT OF THE OCEAN FLOOR AS A "COMMON HERITAGE OF MANKIND." ALTHOUGH MORE DEFINITION WAS NEEDED FOR THIS CONCEPT, IT WAS GENERALLY ALREADY ACCEPTED TO INCLUDE THE PRINCIPLE THAT THE SEABED IS BEYOND NATIONAL JURISDICTION AND NOT SUBJECT TO ANY STATE SOVEREIGNTY. SUCH A CONCEPT IS THUS ANALOGOUS TO THE PRINCIPLE OF THE OUTER SPACE TREATY.

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6. BEESLEY SAID TOPICS LIKE THOSE ABOVE EMPHASIZE THE SENSITIVITY OF THE ISSUES WHICH WILL BE DISCUSSED IN CARACAS. IT WAS IMPORTANT TO RECOGNIZE THAT LAW OF THE SEA IS CURRENTLY IN A STATE OF "CHAOS" WITH HARDLY ANY AGREED RULES. THIS IS OF BENEFIT TO NO ONE AND IS DANGEROUS OVER THE LONG TERM. LAWS ACCEPTABLE TO THE GREATEST POSSIBLE NUMBER OF COUNTRIES ARE NEEDED. THEY MUST BE DEVELOPED BY A TRUE AND REPRESENTATIVE CONSENSUS, THEREFORE, SINCE THEIR IMPOSI-

TION BY LARGE MAJORITY VOTE, WHICH EXCLUDED IMPORTANT COUNTRIES WOULD MEAN ONLY THAT THEY ARE UNACCEPTABLE TO SOME AND THEREFORE WOULD NOT BE OBSERVED.

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USEC BRUSSELS 3867
USNMR SHAPE
USLOSACLANT
USDOCOSOUTH
USCINCEUR
USCINCLANT
JCS WASHDC

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LIMDIS

7. NORWEGIAN REP (ELIASSEN) NOTED NORWAY APPROACHED THE LOS CONFERENCE WITH A CONSIDERABLE SENSE OF URGENCY, SINCE A CLEAR NEED EXISTED FOR GLOBAL ACCEPTANCE OF LAWS WHICH WOULD PROTECT RESOURCES OF THE SEA AND THE RIGHTS OF PEOPLE WHO MAKE THEIR LIVING FROM IT. THUS, UNIVERSALLY ACCEPTED AGREEMENTS WERE NECESSARY TO MINIMIZE DISPUTES, AND IT WAS IMPORTANT TO HAVE MEASURES CONTROLLING SCIENTIFIC RESEARCH, SEABEDS EXPLOITATION, SECRET

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ETC. IF EFFORTS TO THIS END FAIL, EXPLOITATION WILL PROCEED NONETHELESS BUT DEVOID OF EFFECTIVE CONTROL. NORWAY RECOGNIZED THAT ANY ORGANIZATION ESTABLISHED TO CONTROL RESOURCE MANAGEMENT AND ENVIRONMENTAL PROBLEMS OF THE DEEP SEABED SHOULD HAVE ADEQUATE POWERS. THERE WOULD PROBABLY NEED TO BE A CLAUSE IN ANY NEW CONVENTION LIMITING INTERNATIONAL SEABED AREA TO PEACEFUL USES, BUT MILITARY AND ARMS CONTROL ASPECTS RELATING TO THE DEEP SEABEDS SHOULD NOT BE ADDRESSED BY INTERNATIONAL SEABED AUTHORITY. THEY SHOULD INSTEAD BE RESERVED TO APPROPRIATE INTERNATIONAL BODIES.

8. NORWAY SUPPORTS THE PRINCIPLE OF COASTAL STATE JURISDICTION OF RESOURCE RIGHTS OVER A 200 MILE "ECONOMIC ZONE". NORWAY ALSO AGREES WITH A 12-MILE LIMIT OF THE TERRITORIAL SEA AND WITH PROVISIONS SAFEGUARDING INNOCENT PASSAGE WITHIN AND FREEDOM OF NAVIGATION OUTSIDE THE 12-MILE LIMIT. HE HOPED THAT THERE WAS WIDE CONSENSUS ON THE ABOVE DEFINITIONS AND THAT THE REMAINING TASK COULD BE LIMITED TO TRANSFERRING THEM INTO TREATY TERMS.

9. WITH REGARD TO THE ECONOMIC ZONE, NORWAY RECOGNIZED THE RISK OF "CREEPING JURISDICTION" UNDER WHICH RIGHTS RESERVED TO STATES IN THEIR TERRITORIAL WATERS WOULD GRADUALLY BE EXTENDED TO COVER THE 200-MILE ECONOMIC ZONE. IT WAS IMPORTANT TO RECOGNIZE THE REAL NEEDS OF COASTAL STATES AND TO FIND PRACTICAL WAYS TO MEET SUCH REQUIREMENTS AS POLLUTION CONTROLS.

10. NORWAY STRONGLY DESIRES TO UPHOLD THE PRINCIPLES GUARANTEEING RIGHTS OF FREE NAVIGATION BUT RECOGNIZES THIS MUST BE ACCOMMODATED WITH THE CONCEPT OF SOME STATE EXERCISE OF RESOURCE RIGHTS. THE CONCEPT OF INNOCENT PASSAGE WITHIN THE TERRITORIAL SEA MAY PERHAPS NEED FURTHER DEFINITION AND REFINEMENT. A SPECIAL REGIME WOULD BE NECESSARY COVERING TRANSIT OF INTERNATIONAL STRAITS IN ADDITION TO THE REGIME COVERING TERRITORIAL SEAS.

11. SCIENTIFIC RESEARCH ALSO HAD SECURITY IMPLICATIONS, BUT IS PROBABLY MORE CLOSELY RELATED TO RESOURCE QUESTION. NORWAY DOES NOT AGREE WITH OTHERS (E.G., U.S.) WHO MAINTAIN THAT 1958 CONVENTION PROVISIONS ON RESEARCH HAVE WORKED AGAINST ALLIED INTERESTS.

12. SIMILARLY SOME REGIME WOULD BE NEEDED TO COVER VESSEL-SOURCE POLLUTION. NORWEGIAN REP SAID IT WOULD PROBABLY BE DESIRABLE TO DIFFERENTIATE BETWEEN REGULATIONS COVERING EXPLOITATION AND CON-
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STRUCTION AND THOSE APPLYING TO SUCH THINGS AS MARINE DUMPING. COASTAL STATES MIGHT CONCEIVABLY SET STANDARDS REGARDING SEABED EXPLOITATION AND DUMPING IN THE ECONOMIC ZONE, BUT STANDARDS COVERING CONSTRUCTION, ETC., SHOULD BE INTERNATIONAL. SIMILARLY, ENFORCEMENT BY COASTAL STATES ON INTERNATIONAL STANDARDS IN RESPECT OF FOREIGN FLAG VESSELS ENTERING THEIR PORTS MIGHT BE RECOGNIZED, BUT DISTINGUISHED FROM ENFORCEMENT AGAINST TRANSITTING SHIPS.

13. STEVENSON SUPPLEMENTED INITIAL REMARKS BY EMPHASIZING THE EFFECT OF INTERNATIONAL DEVELOPMENTS OVER PAST YEAR ON NATIONAL POSITIONS ON LOS AND MENTIONED U.S. CONCERN ABOUT PROBLEM OF ACCESS TO RESOURCES ON NON-DISCRETIONARY BASIS. WHILE THE PETROLEUM SITUATION DIFFERED FROM THAT OF HARD MINERALS, THE U.S. WOULD TAKE INTO ACCOUNT IN ITS ATTITUDE TOWARD THE SEABED REGIME THE POSSIBILITY OF THE MANIPULATION OF NATURAL RESOURCES FOR POLITICAL PURPOSES. THE COMMON HERITAGE CONCEPT, IN THE U.S. VIEW, DID NOT SIGNIFY COMMON PROPERTY. THE INTERESTS OF THE INTERNATIONAL COMMUNITY SHOULD BE ACCOMMODATED IN A MANNER THAT DID NOT INTERFERE WITH NON-DISCRETIONARY ACCESS TO SEABED RESOURCES. THIS COULD WELL BE ONE OF MOST DIFFICULT PROBLEMS TO RESOLVE AT THE LOS CONFERENCE. RECENT EVENTS HAD ALSO EMPHASIZED--FROM A BROAD NATIONAL SECURITY STANDPOINT--THE DEPENDENCE OF COUNTRIES ON PETROLEUM AND THE NECESSITY OF ENSURING THAT ITS TRANSPORT WAS NOT SUBJECT TO DISCRIMINATORY TREATMENT.

14. TURKISH REP (YOLGA) STRESSED NEED TO REVISE 1958 CONVENTION, PARTS OF WHICH HAD NOW BECOME WELL ESTABLISHED IN INTERNATIONAL LAW, BUT OTHER ASPECTS OF WHICH HAD BEEN OVERTAKEN BY TECHNOLOGICAL DEVELOPMENTS AND THE EMERGENCE OF MANY NEWLY INDEPENDENT NATIONS. NEW LOS ARRANGEMENTS SHOULD GIVE PRIORITY TO NEEDS OF THE COMMUNITY RATHER THAN PARTICULAR REQUIREMENTS OF INDIVIDUAL COUNTRIES; EVEN SO, IT WAS NECESSARY TO BE REALISTIC AND NOT SEEK TO ESTABLISH OVERLY IDEALISTIC PRINCIPLES FATED NEVER TO BE UPHELD. THRKEY'S PARAMOUNT CONCERN WAS THAT IN DEVISING NEW ARRANGEMENTS LOS CONFEREES SHOULD BEAR IN MIND SPECIFIC PROBLEMS TENDENCY THUS FAR IN LOS PREPARATION HAD BEEN TO CONCENTRATE ON PROBLEMS OF GENERAL NAUTRE. CONFLICT BETWEEN TWO COUNRIES ON A PARTICULAR QUESTION COULD CONCERN WHOLE FAMILY OF NATIONS. HENCE NEW CONVENTION SHOULD ALSO INCLUDE RULES TO PROVIDE FOR RESOLUTION OF CONFLICTS ARISING FROM APPLICATION OF MORE GENERAL
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RULES WHICH WERE DEVELOPED. IN PARTICULAR, LOS CONVENTION SHOULD PROVIDE FOR COMPULSORY SETTLEMENT OF DISPUTES THAT MAY ARISE FROM APPLICATION OF GENERAL RULES.

15. FRG REP (KNOKE) SAID HIS GOVERNMENT WAS IN AGREEMENT WITH CONCEPT THAT INTERNATIONAL SEABED SHOULD BE DEALT WITH BY AN INTERNATIONAL AUTHORITY UNDER INTERNATIONAL RULES. ON ECONOMIC ZONES, FRG WAS FEARFUL THAT THIS CONCEPT WAS TOO SIMILAR TO THAT OF A TERRITORIAL SEA. DISTINCTION BETWEEN TERRITORIAL AND HIGH SEA MUST BE MAINTAINED. FRG FAVORED INSTEAD A ZONE GIVING PREFERENTIAL RIGHTS TO COASTAL STATES TO THE RESOURCES IN QUESTION. FRG ALSO SAW POSSIBLE DANGERS IN ASSIGNING RIGHTS TO COASTAL STATES IN POLLUTION MATTERS, INASMUCH AS ONLY ABOUT ONE-FIFTH OF COASTAL POLLUTION USUALLY CAME FROM OFF-SHORE SOURCES. LOS CONVENTION MIGHT WELL INCLUDE A PROVISION THAT COASTAL STATES SHOULD TAKE THE NECESSARY STEPS AGAINST POLLUTION, BUT POLLUTION REGULATION ITSELF SHOULD BE LEFT TO AN INTERNATIONAL CONVENTION, AND VESSEL-SOURCE POLLUTION STANDARDS IN THIS CONNECTION SHOULD BE SET BY IMCO, RATHER THAN BY COASTAL STATES THEMSELVES, WHOSE ACTION IN THIS RESPECT WOULD GO AGAINST FREEDOM OF NAVIGATION- A CONCEPT TO BE PRESERVED.

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IO-03 FEA-01 SCI-03 ARA-10 NEA-06 AF-04 EA-13 DRC-01

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FM USMISSION NATO
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AMEMBASSY MOSCOW
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USEC BRUSSELS 3868
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USLOSACLANT
USDOCOSOUTH
USCINEUR
USCINCLANT
JCS WASHDC

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LIMDIS

16. GREEK REP (THEODORPOULOS) SAW NEED FOR ORDERLY DEVELOPMENT OF LOS CONVENTION SO AS TO BRING PROBLEMS UNDER FIRM CONTROL OF INTERNATIONAL COMMUNITY AND OFFSET DANGEROUS TENDENCIES TO ARBITRARY, UNILATERAL MEASURES BY STATES. EXISTING CONVENTIONS NEED MODIFICATION TO TAKE INTO ACCOUNT CHANGES IN SITUATION SINCE THESE WERE ORIGINALLY FORMULATED. IT WAS ALSO NECESSARY TO TAKE INTO ACCOUNT THE PARTICULAR IMPORTANCE OF LOS TO THE ALLIANCE
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AND TO TAKE CARE NOT TO JEOPARDIZE ALLIANCE SECURITY INTERESTS. THE CONVERENCE SHOULD AVOID VAGUE ARITCLES AND NON-SPECIFIC CRITERIA WITH RESPECT TO RESOLVING PARTICULAR SITUATIONS. ARRANGEMENTS SHOULD BE DEvised TO ALLOW INDIVIDUAL STATES TO WORK OUT MUTUALLY AGREEABLE SOLUTIONS AMONG THEMSELVES, BUT TO PROVIDE FOR THE POSSIBILITY OF THEIR TURNING TO AN ARTICLE OF THE LOS CONVENTION FOR SETTLEMENT OF A PARTICULAR DISPUTE IF NEED BE.

17. FRENCH REP (JEANNEL) STRESSED IMPORTANCE OF LOS CONFERENCE AND SERIOUS CONSEQUENCES OF FAILURE. VIEWING LOS PROBLEMS IN CONTEXT OF NATO COUNCIL, HE NOTED AS A COMMON CHARACTERISTIC OF ALLIES-- ESPECIALLY THE EUROPEANS--THEIR DEPENDENCY UPON OUTSIDE FOR FUNCTIONING OF THEIR ECONOMIES. THIS HAS OBVIOUS SECURITYIMPLCATIONS, PARTICULARLY IN CAS OF ENERGY SUPPLIES WHOSE CONTINUANCE MUST BE ASSURED. MAIN CONCERN IN LOS IS TO MAINTAIN FREEDOM OF THE SEAS. WATERS OF PRIMARY INTEREST TO THE ALLIANCE ARE NORTH AND SOUTHEAST ATLANTIC, MEDITERRANEAN, PERSIAN GULF, RED SEA, AND WEST INDIAN OCEAN, IN ALL OF WHICH FREEDOM OF COMMUNICATION MUST BE PRESERVED.

MAINTENANCE OF FREEDOM FOR CIVIL NAVIGATION IS ULTIMATELY DEPENDENT UPON A MILITARY APPARATUS; HENCE FREEDOM FOR MILITARY AS WELL AS CIVIL COMMUNICATION IS ESSENTIAL. IF ECONOMIC PREROGATIVES OF COASTAL STATES BEYOND THEIR TERRITORIAL SEAS ARE TO GAIN RECOGNITION IN LOS, IT IS IMPORTANT TO DEFINE THESE WITH CLARITY AND AS ONLY EXCEPTION TO THE GENERAL PRINCIPLE THAT OUTSIDE THE 12-MILE LIMIT LIE THE HIGH SEAS. EXCEPT FOR CERTAIN ECONOMIC RIGHTS FOR COASTAL STATES IN THESE AREAS AS CLEARLY SPECIFIED IN THE CONVENTION, TRADITIONAL FREE ACCESS TO THESE WATERS SHOULD BE MAINTAINED. WITH RESPECT TO CERTAIN STRATEGICALLY AND ECONOMICALLY IMPORTANT STRAITS, VESSELS SHOULD BE FREE TO PASS THROUGH WITHOUT PRIOR AUTHORIZATION, SIMILAR TO FREEDOM OF THE HIGH SEAS. THE ONLY PRACTICAL AND ACCEPTABLE SOLUTION TO THE PROBLEM WOULD BE TO LAY DOWN SIMPLE LOS RULES TO THIS EFFECT.

18. DANISH REP (FERGO) CONSIDERED ECONOMIC QUESTIONS MOST IMPORTANT FOR LOS CONFERENCE. COUNTRIES ESPECIALLY DEPENDENT UPON MARINE RESOURCES, ESPECIALLY FISHERIES, SHOULD RECEIVE SPECIAL RIGHTS OVER THESE AREAS. SPECIAL CONSIDERATION IN THIS RESPECT SHOULD ALSO BE GIVEN TO LDC'S. INDUSTRIALLY RICH COUNTRIES DO NOT HAVE SO MUCH AT STAKE. DENMARK BELIEVED THAT QUESTION OF PEACEFUL USES OF THE SEABED

WOULD BE BETTER TAKEN UP ELSEWHERE THAN AT LOS CONFERENCE, BUT AS IT
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WAS
ON THE AGENDA IT SHOULD BE DEALT WITH. ACCORDINGLY DANES WOULD WELCOME EXPERT VIEWS IN NAC DISCUSSION AS TO WHAT IMPLICATIONS OF THIS ISSUE WERE. DENMARK AGREED WITH FRANCE ON IMPORTANCE OF UPHOLDING THE FREEDOM OF THE HIGH SEAS. DENMARK ITSELF, HOWEVER, HAD ITS OWN NATIONAL PROBLEM OF INTERNATIONAL STRAITS LESS THAN SIX MILES WIDE WITHIN ITS TERRITORIAL SEA, OVER WHICH IT HAS FOR YEARS HAD RECOGNIZED CONTROL, AND BELIEVED THAT A SPECIAL SOLUTION WAS NEEDED IN SUCH A SITUATION. THE QUESTION SHOULD BE DEALT WITH SO AS TO ACHIEVE A MORE CLEARLY DEFINED REGIME BALANCING THE INTERESTS OF THE COASTAL STATE AND USER STATES IN THE OVERALL INTEREST OF INTERNATIONAL NAVIGATION, ESPECIALLY AS POLLUTION AND VESSEL SAFETY PROBLEMS INCREASE. DENMARK SUPPORTED CANADA'S POINT ON THE IMPORTANCE OF SEEKING GENERAL ACCEPTANCE OF LOS RULES, RATHER THAN ALLOW ESTABLISHMENT OF NEW RULES OF INTERNATIONAL LAW BY MAJORITY, WITHOUT THEIR HAVING ACHIEVED CONSENSUS. WITHOUT THIS UNDERLYING CONSENSUS, SUCH RULES WOULD NEVER GAIN THE NEEDED RATIFICATION.

19. UK REP (JACKLING) STRESSED NECESSITY FOR COMPROMISE IF LOS CONFERENCE IS TO BE SUCCESSFUL. UK BELIEVES IT IS ESSENTIAL TO SECURITY INTERESTS TO MAINTAIN THE FREEDOM OF THE HIGH SEAS. ANY EXTENSION OF COASTAL STATES'S RIGHTS IN ECONOMIC ZONES MUST NOT BE AT THE EXPENSE OF FREE MARITIME MOVEMENT, ALTHOUGH SPECIAL ACCOUNT COULD BE TAKEN OF THE INTERESTS OF COASTAL STATES WITH A SPECIAL CONCERN FOR RESOURCE MANAGEMENT.

2. ANDERSEN (ICELAND) STRESSED NEED FOR CONSENSUS AT CARACAS, WHICH IN HIS VIEW COULD BE BUILT AROUND A PACKAGE OF 12-MILE TERRITORIAL SEA, 200-MILE ECONOMIC ZONE, AND AN INTERNATIONAL REGIME FOR THE DEEP SEABED. IF ALLIES WORK TOGETHER IN A SPIRIT OF COMPROMISE, A PACKAGE CAN EMERGE THAT IS ACCEPTABLE TO ALL ALLIES AND SUCCESSFUL IN DEALING WITH ISSUES OF STRAITS, POLLUTION, AND RESEARCH. BUT ALLIES CANNOT USE PRESSURE ON OTHERS AT CONFERENCE. ALLIANCE REPRESENTS ONLY 10 PERCENT OF THE PARTICIPANTS AND CANNOT DECREE THE RESULTS.

21. ANDERSEN RECALLED THAT ICELAND HAD MAINTAINED A POSITION FOR SOME 25 YEARS FAVORING A NARROW TERRITORIAL SEA AND A BROAD ECONOMIC ZONE--A POSITION WHICH WAS ONLY NOW COMING INTO ITS OWN AS A WIDELY ACCEPTED APPROACH. HE APPEALED TO MEMBERS OF NAC TO ADJUST THEIR
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POSITIONS FOR CARACAS CONFERENCE TO THIS "FACT OF LIFE".

22. VARVESI (ITALY) STATED SUPPORT FOR MAINTAINING 1958 CONVENTIONS, AND FOR ESTABLISHMENT OF 12-MILE TERRITORIAL SEA. HE AIDED ITALIAN PROPOSAL TO DISTINGUISH TERRITORIAL STRAITS OF LESS THAN SIX MILES, WHERE INNOCENT PASSAGE WOULD CONTINUE TO APPLY, FROM NEW TERRITORIAL STRAITS FROM 6 TO 24 MILES IN WIDTH, WHERE NEW RULES WOULD NEED TO BE ESTABLISHED. IN ECONOMIC ZONE, ITALIAN VIEW IS THAT COASTAL STATES SHOULD HAVE PREFERENTIAL RIGHTS FOR FISHING, EXPLORATION AND SCIENTIFIC RESEARCH, BUT ITALIANS BELIEVE THAT EACH OF THESE ISSUES CAN BEST BE TREATED SEPARATELY.

23. BEESLEY (CANADA) INTERVENED ONCE MORE TO ADDRESS POINTS MADE BY OTHERS. HE THOUGHT MOST ALLIES HAD GIVEN VIEWS THAT WERE VERY CLOSE, WITH DIFFERENCES ONLY IN EMPHASIS. CANADIAN POSITION WAS NEARLY IDENTICAL WITH NORWAY'S. QUESTION OF DISPUTE SETTLEMENT WAS CENTRAL FOR SUCCESS OF CONFERENCE. IT MUST BE AGREED TO REFER DISPUTES IN ECONOMIC ZONE TO THIRD-PARTY ARBITRATION, RATHER THAN TO INTERNATIONAL AUTHORITY. ON COASTAL STATE RIGHTS, DENMARK COULD WELL BE RIGHT THAT "SOME STATES ARE MORE EQUAL THAN OTHERS" (3.G., HAVE GREATER RELIANCE ON THE SEA AND THEREFORE NEED PREFERENTIAL TREATMENT IN ANY CONVENTIONS).

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USDOCSOUTH
USCINCEUR
USCINCLANT
JCS WASHDC

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LIMDIS

24. FOR STRAITS PROBLEMS, BEESLEY SAID IT MIGHT BE POSSIBLE
IN SOME CASES TO CONSIDER JOINT COMMISSION TO REGULATE PASSAGE.
COMMISSION WOULD NOT EXERCISE PRESCRIPTIVE CONTROL, BUT MIGHT
OPERATE SOMEWHAT LIKE US-CANADIAN COMMISSION, WHOSE EXISTENCE WAS
PARTLY RESPONSIBLE FOR THE SUCCESS OF THE DEMILITARIZED BORDER
BETWEEN THE U.S. AND CANADA. ON THE QUESTION OF PROPRIETARY RIGHTS
TO THE RESOURCES OF THE INTERNATIONAL SEABED AREA, THE CURRENT
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DISCUSSIONS IN GENEVA OF THE SAME ISSUE WITH REGARD TO THE MOON

TREATY MIGHT SET RELEVANT PRECEDENTS. ADDITIONAL CRITICAL ISSUES
ON WHICH CONFERENCE MIGHT "BREAK" WERE REVENUE-SHARING, AND POSSIBLY
STRAITS AND MARINE POLLUTION. IT SEEMED CLEAR FROM DISCUSSION THAT
ALL ALLIED REPS WANTED MAXIMUM FREEDOM FOR NAVIGATIONAL USES AND
TRANSIT IN STRAITS AND THE ECONOMIC ZONE. HOWEVER, COASTAL STATE
RESPONSIBILITIES WITH REGARD TO POLLUTION NEEDED TO BE RECOGNIZED,
RECALLING RESULTS OF STOCKHOLM CONFERENCE, PARTICULARLY IN THE MOST
HEAVILY TRAVELLED WATERS.

25. BEESLEY CONCLUDED BY RAISING ALMOST HYPOTHETICALLY QUESTION
WHETHER IT WAS REALLY NECESSARY TO ABANDON THE TRADITIONAL THREE-
MILE LIMIT FOR TERRITORIAL WATERS IN ORDER TO REACH A CONSENSUS
PACKAGE. IF ECONOMIC ZONE PROVISIONS WERE SUFFICIENT TO SATISFY
COASTAL STATES, EXPANSION OF TERRITORIAL WATERS TO 12 ILES MIGHT
NOT EVEN BE NECESSARY, AND STRAITS PROBLEM WOULD NOT EXIST.
BEESLEY WENT ON TO SAY, HOWEVER, THAT THIS DID NOT REPRESENT

AN OFFICIAL POSITION EVEN FOR CANADA AND HE DID NOT EXPECT OTHER STATES, SUCH AS THE USSR, TO ABANDON THEIR LONG-STANDING 12-MILE CLAIMS JUST BECAUSE OF THE ABSTRACT LOGIC OF GOING BACK THREE MILES.

26. AS PREVIOUSLY REQUESTED BY AMB. STEVENSON, ACTING SYG GAVE FLOOR TO RADM. MORRIS (U.S.), WHO GAVE BRIEF STATEMENT OF IMPACT OF LAW OF THE SEA ON DEFENSE ISSUES. MORRIS SUMMARIZED THREE STUDIES CARRIED OUT BY U.S. JOINT CHIEFS OF STAFF:

A. NUCLEAR DETERRENCE - CHIEFS HAD CONCLUDED THAT UNREPORTED (COVERT), UNNOTIFIED, UNRESTRICTED MOVEMENT OF SUBMARINES IS ESSENTIAL FOR DEFENSE. OPTION FOR SUBMERGED TRANSIT MUST BE RETAINED NOT ONLY FOR PRESENT BUT FOR LONG-TERM FUTURE PLANNING. MOREOVER, TO ACCEPT ANY EXTENSION OF TERRITORIAL WATERS BEYOND 12 MILES, AND THUS TO LIMIT FURTHER THE AREA IN WHICH SUBS COULD REGULARLY OPERATE, WOULD AMOUNT TO A GREAT SACRIFICE IN TERMS OF STRATEGIC LEVERAGE. TWELVE-MILE LIMIT COULD BE ACCEPTED ONLY IF STRAITS REMAIN OPEN FOR FREE TRANSIT.

B. ASW - ATTACK SSN'S MUST RETAIN OPTION TO TRAIL HOSTILE SUBMARINES IN A COVERT FASHION. THEREFORE, THEY MUST NOT BE REQUIRED TO SURFACE (AS, FOR INSTANCE, AS A RESULT OF OPERATION OF INNOCENT PASSAGE RULE IN STRAITS) OR BE LEGALLY RESTRICTED IN ANY WAY IN SUB-SECRET

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MERGED PASSAGE THROUGH WATER COLUMN (AS IN ECONOMIC ZONE).

C. CONVENTIONAL FLEET MOBILITY AND RESUPPLY OF ALLIANCE - HERE, RESULTS OF STUDY WERE EVEN MORE CLEAR. AS CLEARLY STATED

BY FRENCH REP JEANNEL, HIGH SEAS FREEDOMS WERE ESSENTIAL FOR ALLIED INTERESTS FOR MOVING CARGO AS WELL AS FOR PURELY MILITARY SHIPPING. MOREOVER, REPS WOULD HAVE NOTED THAT SOME STATES MAINTAIN THAT CERTAIN TYPES OF CARGO ARE INHERENTLY NON-INNOCENT; IT

IS IMPORTANT TO ASSURE THAT ALL CARGOES REMAIN FREE, AND ALLIES

MUST ENSURE THAT HIGH SEAS FREEDOM OF TRANSIT IN INTERNATIONAL STRAITS REMAINS IN ANY TREATY FORMULATION.

27 AS PRACTICING SAILOR, ADMIRAL MORRIS ALSO WISHED TO ASK THAT LOS REPS BEAR IN MIND NEEDS OF OPERATING SHIPS, WHETHER MILITARY OR CIVILIAN, TO TAKE CERTAIN MEASURES FOR SAFETY. EVEN WITH THE SOPHISTICATED NAVIGATION EQUIPMENT ON AN AIRCRAFT CARRIER, HE RECALLED AN OCCASION WHEN HE, AS COMMANDING OFFICER, HAD TO STEER FOR A LANDFALL IN ORDER TO GET A NAVIGATIONAL FIX. HE HOPED THAT LOS REPS WOULD STAY IN CLOSE CONTACT WITH OPERATING SAILORS DURING CONFERENCE AND KEEP REALITIES OF SAFETY AT SEA IN MIND.

28. PECK (UK) POSED TWO QUESTIONS TO MORRIS, WHEN SPEAKING OF "NO NOTIFICATION," DID HE MEAN IN CASE OF SUBMARINES, SURFACED OR SUBMERGED? SECOND, IN REACHING CONCLUSION OF NEED FOR FREE NAVI-

GATION, HAD STAFF STUDIES ADDRESSED THE BALANCE OF ADVANTAGES TO ALLIES AND TO SOVIETS? MORRIS REPLIED TO FIRST QUESTION THAT HE HAD MEANT TO MAKE CLEAR THAT PRINCIPLE OF "NO NOTIFICATION" APPLIED TO ALL VESSELS (MILITARY AND CIVILIAN) IN ALL MODES. WITH REGARD TO SECOND QUESTION, LIMITATIONS ON FREE NAVIGATION MUST BE ASSUMED TO HAVE A GREATER EFFECT ON ALLIED SIDE THAN ON SOVIETS. ALLIES WILL BE BOUND TO RESPECT RULES OF LAW, BUT WE CANNOT ASSUME

THAT SOVIETS WITH A CLOSED SOCIETY WILL BE SIMILARLY RESTRICTED.

29. SUMMING UP, PANSA OBSERVED THAT ALLIES GENERALLY RECOGNIZED NEED FOR COMPROMISE AND IMPORTANCE OF ACHIEVING AN AGREEMENT PROMPTLY TO AVERT A STATE OF CHAOS. DISCUSSION HAD DRAWN ATTENTION TO DERTAIN IMPORTANT AND PERHAPS SENSITIVE POINTS SUCH AS THE RIGHTS
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OF COASTAL STATES IN THE PROJECTED ECONOMIC ZONE AND THE IMPORTANCE TO ALLIANCE OF PRESERVING UNRESTRICTED TRANSPORT OF PETROLEUM. HE THOUGHT IT MIGHT BE ADVISABLE TO CONTINUE CONSULTATIONS AMONG ALLIES DURING CARACAS CONFERENCE ITSELF. FINALLY, HE SAID THAT PRESS SPOKESMAN WOULD ANNOUNCE AFTER MEETING THAT LOS REPRESENTATIVES HAD MET WITH THE COUNCIL.

30. FRENCH REP (JEANNEL) BRIEFLY OBJECTED TO PRESS STATEMENT ABOUT LOS CONSULTATIONS IN NAC, BUT AGREED IN THE END TO A ROUTINE STATEMENT
T
IN WHICH IT WOULD BE NOTED THAT REGULAR COUNCIL MEETING HAD BEEN HELD WITH LOS EXPERTS PRESENT, AFTER OTHERS POINTED OUT THAT ANNOUNCE
-
MENTS ARE ROUTINE PRACTICE FOR NAC CONSULTATIONS ON NEGOTIATIONS ELSEWHERE, SUCH AS AT CCD, AND THAT DISTORTED STORIES ABOUT CONSULTATIONS MIGHT LEAK IF THERE WERE NO OFFICIAL ANNOUNCEMENT.

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LIMDIS

31. DURING AFTERNOON SESSION, LOS REPS MET TO CONTINUE MORE DETAILED EXAMINATION OF AGENDA FOR LOS CONSULATIONS, AS FOLLOWS:

I. SECURITY IMPLICATION IN RELATION TO THE INTERNATIONAL SEABED AREA

II. MILITARY IMPLICATIONS OF A POSSIBLE ECONOMIC ZONE

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III. THE TERRITORIAL SEA

IV. NAVIGATION

V. THE POWERS OF THE INTERNATIONAL ORGAN TO BE ESTABLISHED FOR THE EXPLOITATION OF THE SEABED

VI. SCIENTIFIC RESEARCH

VII. MARINE POLLUTION

VIII. ANY OTHER BUSINESS

32 STEVENSON BRIEFLY OUTLINED U.S. VIEWS ON EACH OF TOPICS CONSIDERED, AND OTHERS, IN PARTICULARLY BEESLEY (CANADA), IDENTIFIED NUANCES OF DIFFERENCE BETWEEN THEIR POSITIONS AND THAT OF U.S.

33. IN PARTICULAR, STEVENSON URGED THAT ALL NATO MEMBERS OPPOSE ANY EFFORT TO USE THE "PEACEFUL USES" AGENDA ITEM AS A BASIS FOR INVOLVING THE LOS CONFERENCE IN ANY DEMILITARIZATION EFFORTS. HE POINTED OUT THAT OTHER INTERNATIONAL FORUMS WERE MORE APPROPRIATE FOR CONSIDERATION OF DISARMAMENT QUESTIONS, AND THE INTRODUCTION OF THESE QUESTIONS INTO THE LOS CONFERENCE WOULD HAVE A DIVISIVE EFFECT AND LEAD TO DELAY. THERE WAS GENERAL AGREEMENT.

34. HOWEVER, VAN DER ESSEN (BELGIUM) STATED WE WOULD PROBABLY HAVE TO ACCEPT A PROVISION PROHIBITING THE USE OF THE RESOURCES OF THE DEEP SEABED EXCEPT FOR PEACEFUL PURPOSES. STEVENSON INDICATED THAT UNDER U.S. INTERPRETATION OF "PEACEFUL USES" AS MEANING USE IN ACCORDANCE WITH UN CHARTER, THIS PRESENTED NO PROBLEM, BUT IF INTERPRETED AS PREVENTING ANY MILITARY USE IT WAS IMPRACTICAL SINCE, FOR EXAMPLE, SEABED NICKEL USED IN STEEL COULD NOT BE PREVENTED FROM BEING USED IN CONSTRUCTION OF WARSHIPS OR OTHER MILITARY MATERIEL. VAN DER ESSEN AGREED THAT CONTROL OF USE IMPRACTICAL, BUT SAID WE WOULD PROBABLY HAVE TO ACCEPT SUCH A CLAUSE.

35. BEESLEY (CANADA) STATED IT WOULD BE VERY DIFFICULT TO AVOID "PEACEFUL USES" ISSUE COMPLETELY, SINCE SOME LATIN AMERICAN STATES REGARDING CONTINENTAL MARGIN AS PART OF THEIR SOVEREIGN TERRITORY, ON WHICH NO FOREIGN MILITARY ACTIVITIES COULD BE CARRIED ON. HE SUGGESTED DISTINCTION BETWEEN WEAPONS AND PASSIVE EQUIPMENT
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SUCH AS LISTENING DEVICES, WHICH MIGHT BE ACCEPTABLE AS INHERENTLY STABILIZING RATHER THAN THREATENING. BEESLEY STATED LOS CONFERENCE MIGHT NOT BE THE BEST FORUM, BUT THAT LATIN AMERICAN COUNTRIES CLAIMS OF SOVEREIGNTY OVER CONTINENTAL MARGIN WILL PROBABLY RAISE ISSUES AND PERHAPS WE SHOULD BE PREPARED TO DISTINGUISH BETWEEN THESE USES.

36. CHAIRMAN (PANSA) AT CLOSE THANKED U.S. FOR INITIATIVE IN PROPOSING CONSULTATIONS, AND AGAIN SUGGESTED THAT CLOSE LIAISON AND FREQUENT CONSULTATIONS BE MAINTAINED AMONG ALLIES DURING CONFERENCE ITSELF.
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